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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,504	07/25/2003	Clark C. Davis	1001.1869101	1503

28075 7590 10/16/2006

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EXAMINER

ROY, ANURADHA

ART UNIT PAPER NUMBER

3736

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/604,504	Applicant(s) DAVIS ET AL.	
	Examiner Anuradha Roy	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) 5,9,11,12,15-17,21-24,28-52,54,56,57 and 60-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-8,10,13,14,18-20,25,27,53,55,58,59 and 76-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's amendment submitted on April 19, 2006.

Examiner acknowledges the amended claims in response to the first office action.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action of January 19, 2006.

Claims 1-4, 6-8, 10, 14, 19-20, 25-27, 53, 55, & 58-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobsen et al. (US Patent No. 6,579,246).

Please see office action of January 19, 2006 for details of the rejection.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action of January 19, 2006.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al. in view of Lui (US Publication No. 2002/0010475).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al. in view of Levine et al. (US Publication No. 2003/0009157).

Please see office action of January 19, 2006 for details of the rejection.

Additional Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 76-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al. (US Patent No. 6,579,246) in view of Tsuji et al. (US Patent No. 5,181,668).

Regarding claims 76, 79, 82, 85, Jacobsen et al. discloses a medical device with all of elements detailed in the office action of January 19, 2006. However, Jacobsen et al. fails to teach of a medical device, wherein the wire having a substantially non circular cross section has two substantially flat opposite non-parallel sides. Tsuji, however, teaches of a cross section having two substantially flat opposite non-parallel sides that are out of parallel by an angle prior to forming the first coil (Figure 4). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Tsuji to incorporate a wire having a substantially non circular cross section has two substantially flat opposite non-parallel sides with Jacobsen et al. in order to provide a wire with high operational efficiency (Column 3, lines 31-35 & Figure 4)

Regarding claims 77, 78, 80, 81, 83, 84, 86, & 87, Tsuji discloses a medical device, wherein the sides become substantially parallel (Figure 3). However, Examiner notes the language "when the wire is wound into the first coil or wherein the wire has a substantially isosceles trapezoidal cross section prior to forming the helical coil" and "a substantially rectangular cross section after forming the first coil," is directed to method of forming claim language and will not be examined. Examiner recommends the Applicant make the appropriate corrections.

Response to Arguments

Applicant's arguments filed April 19, 2006 have been fully considered but they are not persuasive. Regarding claims 1, 7, 25, & 53, Applicant asserts Jacobsen et al. does not disclose a wire have a substantially non-circular cross section. However, Examiner notes that the term "substantially" is a relative term that appears to render the claims indefinite. The term "substantially" is not defined by the claims, the specification does

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not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Thus, Jacobsen et al. does anticipate a coil formed from a wire having a substantially non-circular cross section, as claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anuradha Roy whose telephone number is 571-272-6169 and whose email address is anuradha.roy@uspto.gov. The examiner can normally be reached between 9:00am and 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

~AR


MAX HINDENBURG
PATENT EXAMINER
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